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The human rights situation in Myanmar

Report of the Secretary-General*

Summary

The present report is based upon the good offices undertaken by the Secretary-General and his Special Envoy, Razali Ismail, to facilitate national reconciliation and democratization in Myanmar, in accordance with General Assembly resolution 56/231 of 24 December 2001. The discussions that the Secretary-General and his Special Envoy have had separately with the Myanmar authorities during the reporting period have focused on the issue of how the United Nations, which has been facilitating the confidence-building talks that started between the Government and Daw Aung San Suu Kyi in October 2000, can be of assistance in moving these discussions towards a more substantive dialogue. Some significant developments have taken place, including the restoration of Daw Aung San Suu Kyi's freedom of movement on 6 May. However, substantive dialogue between the Government and Daw Aung San Suu Kyi has not started yet. Concerned that the positive momentum generated since this spring will be lost unless some tangible progress is made in the near future, the Secretary-General reiterates his call on the Government and Daw Aung San Suu Kyi to set aside their differences, unite for the larger cause of national reconciliation and start their political dialogue as soon as possible so that a national reconciliation acceptable to all interested parties in Myanmar can be achieved at an early date.

* The present report is being submitted on 16 October 2002 so as to include as much up-to-date information as possible.

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I. Introduction

1. The present report is submitted pursuant to paragraph 27 of General Assembly resolution 56/231 of 24 December 2001, entitled "Situation of human rights in Myanmar", in which the Assembly requested me to continue my discussions with the Government of Myanmar on the situation of human rights and the restoration of democracy in the country and to submit additional reports to the Assembly during its fifty-sixth session on the progress of those discussions, and to report to the Assembly at its fifty-seventh session and to the Commission on Human Rights at its fifty-eighth session.

2. As indicated in my previous reports, I consider the role entrusted to me by the General Assembly as being one of good offices, as opposed to the fact-finding mandate assigned by the Commission on Human Rights to the Special Rapporteur. In this context, the General Assembly, by resolution 56/231, strongly endorsed the efforts of my Special Envoy for Myanmar, Razali Ismail, to help facilitate national reconciliation among all interested parties in Myanmar and encouraged the Government of Myanmar, through the establishment of a constructive and regular dialogue, to make better use of my good offices.

3. In implementation of resolution 56/231, my Special Envoy has so far visited Myanmar twice in 2002, from 23 to 26 April and from 2 to 6 August. He had undertaken six missions during 2000 and 2001. My Special Envoy's primary interlocutors in Yangon from the Government side were Lieutenant General Khin Nyunt, Secretary-1 of the State Peace and Development Council, Win Aung, Minister for Foreign Affairs, and Khin Maung Win, Deputy Minister for Foreign Affairs. Other Government officials with whom he had discussions included Tin Winn, Minister of Labour and Culture, Brigadier General D. O. Abel, Minister at the Office of the Chairman of the State Peace and Development Council, Colonel Tin Hlaing, Minister of Home Affairs, and Soe Tha, Minister of National Planning and Economic Development. During his April visit, my Special Envoy also met with Senior General Than Shwe and General Maung Aye, Chairman and Vice-Chairman respectively, of the State Peace and Development Council.

4. During each of his visits, my Special Envoy met separately with Daw Aung San Suu Kyi, General Secretary of the National League for Democracy (NLD), and other members of the NLD Central Executive Committee, including Chairman Aung Shwe, Vice-Chairman Tin Oo and Spokesman Lwin. In addition, my Special Envoy met with representatives of the ethnic nationalities, including members of the United Nationalities Alliance, which comprises the Shan Nationalities League for Democracy and seven "de-registered" ethnic political parties. He also had useful exchanges of views with members of the diplomatic corps, the United Nations country team and international non-governmental organizations in Myanmar, including the International Committee of the Red Cross.

5. On my part, in view of developments in Myanmar in early 2002, I conveyed my thinking on the national reconciliation process in a letter addressed to Senior General Than Shwe, who is also Prime Minister of Myanmar, on 17 April 2002, ahead of my Special Envoy's visit. I continued my discussion with the Myanmar authorities when I met with Foreign Minister Win Aung during the present session of the General Assembly, on 20 September 2002.

II. Content of the discussions

6. The discussions that my Special Envoy and I have had separately with the Myanmar authorities over the past year have centred on the issue of how the United Nations, which has been facilitating the phase of the confidence-building talks that started between the Government and Daw Aung San Suu Kyi in October 2000, can be of assistance in moving these discussions beyond the confidence-building stage to dialogue on more substantive issues. Over this period, and in this context, my Special Envoy and I have also focused on: (a) the need to release all political detainees; (b) the full lifting of the restrictions on the normal activities of legal political parties; (c) the provision of enhanced humanitarian assistance; and (d) the need for the Government to make adjustments to Myanmar's economy.

7. Some positive developments had taken place by the end of 2001. These included the continued release of political prisoners and the relaxation of some of the constraints on the lawful political activities of NLD and some of Myanmar's other legal political parties. Because of a better understanding between the two sides, confidence between them was judged to have increased as well. Hence, the sense that the time had come for the Government and Daw Aung San Suu Kyi to start a substantive dialogue was heightened in early 2002.

8. Hopes of a breakthrough diminished, however, following an apparent coup attempt in Yangon in early March and the subsequent postponement of my Special Envoy's trip to Myanmar, scheduled to take place in mid-March. In my letter of 17 April to Senior General Than Shwe, I pointed out that efforts to build confidence between the Government and NLD had been warmly received by the United Nations and the international community as a whole and urged the Prime Minister to take bold action to move the process forward, while recognizing the home-grown nature of the process. I reiterated the need for the remaining restrictions on Daw Aung San Suu Kyi's freedom of movement to be lifted so that she could fully resume her lawful activities as General Secretary of NLD. I also urged the Government to release the majority of the remaining political prisoners in the near future and eventually all of them.

9. My Special Envoy was able to return to Yangon in April. During his mission, he followed up on my thinking, at the highest level, with Senior General Than Shwe, General Maung Aye, Lieutenant General Khin Nyunt and other senior Government officials. He stressed the importance of the Government lifting the remaining restrictions on Daw Aung San Suu Kyi's freedom of movement and entering a political dialogue with her as soon as possible. The Government leaders informed him of the scope of contacts between the Government and Daw Aung San Suu Kyi and NLD. In addition, they assured him that despite the coup plot, they were not delaying their confidence-building talks with Daw Aung San Suu Kyi, that the national reconciliation process was on track and that positive developments would come about in the near future. My Special Envoy left Yangon on 26 April, convinced that the Government would soon take some measures to restore Daw Aung San Suu Kyi's freedom of movement.

10. The remaining restrictions on Daw Aung San Suu Kyi's freedom of movement were lifted on 6 May. In its statement, the Government proclaimed that it would recommit itself to allowing all its citizens to participate freely in the political process. Daw Aung San Suu Kyi responded by remarking, "The confidence-building

stage is over". I welcomed this move as a major development that could provide fresh momentum to the 19-month-old confidence-building and national reconciliation process. The restoration of Daw Aung San Suu Kyi's freedom of movement, as substantiated by her subsequent trips to Mandalay, Mon State and other regions, was warmly welcomed by the international community as a whole.

11. My Special Envoy continued his discussions with the Myanmar authorities on my behalf when he returned to Yangon in August. He reiterated the call for the Government and Daw Aung San Suu Kyi to start substantive dialogue by seizing the positive momentum generated since May. My Special Envoy impressed upon the Government that Daw Aung San Suu Kyi was a "national asset", and urged it to begin to engage with her on a range of substantive issues. The Government acknowledged that the atmosphere surrounding its talks with Daw Aung San Suu Kyi had been "positive and sincere". Secretary-1 Khin Nyunt explained to my Special Envoy that the Government had given Daw Aung San Suu Kyi, during her trips to Mandalay and Mon State in late June, VIP treatment such as is normally extended only to State Peace and Development Council leaders. On the basis of the home-grown nature of the national reconciliation process, and in the spirit of what they referred to as "family reconciliation", the Government leaders indicated to my Special Envoy that they would soon meet with Daw Aung San Suu Kyi to discuss a wide range of subjects, including, but not limited to, constitutional issues. However, the Government side stopped short of providing any time frame for such a process to start.

12. In addition, my Special Envoy reminded the Government that the release of political detainees was an important barometer of the national reconciliation process. He reiterated his call for the majority of the remaining detainees to be freed soon, and for all of the rest to be freed as soon as possible thereafter, preferably through an amnesty or a series of amnesties. He urged the Government to give priority to members of Parliament elected in the 1990 elections, as well as the elderly, the sick, women and those who have completed their sentences. Separately, my Special Envoy underscored the need for further freedom of activity to be restored to all of Myanmar's legitimate political parties. The Government's approach to the issue of political detainees is that it will release them in accordance with its national laws. Secretary-1 Khin Nyunt explained that because of the need to maintain national security and stability, the Government would continue to consider the release of political detainees on a case-by-case basis. The Government has so far released more than 330 NLD members since January 2001. Some 400 women prisoners have also been released on humanitarian grounds. Approximately 220 NLD members, 400 non-NLD members and several hundred others, including students, are nevertheless believed to be still in detention. Furthermore, I note with concern that since my Special Envoy's last visit to Myanmar, there have been credible reports of new political arrests.

13. The lifting of the restrictions on the activities of legal political parties has been unevenly applied. For example, while the office of the Shan Nationalities League for Democracy in Yangon is open, its activities are limited in Shan State. As of August 2002, NLD had been allowed to reopen 60 township offices across the country: 37 in the Yangon district, 5 in Mon State and 18 others elsewhere, including Mandalay. However, despite numerous requests, it has not been granted a licence to publish. On the other hand, the National Unity Party, the pro-Government party that contested the 1990 elections, is allowed to publish and distribute political material.

14. During his separate meetings with the Government and Daw Aung San Suu Kyi, my Special Envoy discussed the possibility of greater United Nations and international humanitarian assistance to help Myanmar address challenges in the areas of HIV/AIDS, education and food security. He suggested that the Government establish a mechanism to administer and monitor the delivery of humanitarian assistance. Noting that there were adequate legal and administrative structures for the management of humanitarian assistance, the Government instead expressed its readiness to welcome specific recommendations that Daw Aung San Suu Kyi would make on the basis of her future trips to various humanitarian project sites. The Government assured my Special Envoy that Daw Aung San Suu Kyi would have complete freedom to visit any project sites run by the United Nations, international non-governmental organizations and even the Government, if the two sides agreed on the visits beforehand. On her part, Daw Aung San Suu Kyi informed my Special Envoy that, as a consequence of her travel to Mandalay and Mon State, she was willing to "cooperate with the Government in ways that would directly benefit all the peoples of Myanmar and are conducive to the evolution of a democratic State". Separately, my Special Envoy raised the related issue of Myanmar's economy, and the need for adjustments to be made in parallel with the ongoing process of national reconciliation and democratization, with both the Government and Daw Aung San Suu Kyi.

15. My Special Envoy made an effort to explain recent developments in the national reconciliation process to representatives of ethnic nationalities, whose eventual inclusion in the process is supported by the United Nations. He told them that the United Nations believes that substantive dialogue, leading to a national reconciliation acceptable to all the people of Myanmar, must eventually include all of the country's relevant political players, including representatives of the ethnic nationality groups. For their part, the ethnic nationality leaders have expressed their support for the ongoing talks and hope that they will be invited to take part in the national reconciliation process at an appropriate time. During his visit in August, my Special Envoy also encouraged the Government to investigate allegations that the Myanmar military had used rape as a weapon of war in areas of Shan State where conflict continues. I am pleased to note that the Government has invited the Special Rapporteur on the situation of human rights in Myanmar to visit the country in October. I am informed that during his visit, in addition to assessing the overall human rights situation in Myanmar, he will make a provisional assessment of how to proceed with an objective and comprehensive investigation of the recent rape allegations. I also welcome the recent appointment of an International Labour Organization liaison officer tasked with assisting the Government in its endeavour to eliminate the practice of forced labour in the country.

16. I continued my discussion with the Myanmar authorities on 20 September, taking advantage of Foreign Minister Win Aung's visit to New York for the fifty-seventh session of the General Assembly. During my meeting with the Foreign Minister, I encouraged the Government to start its political dialogue with Daw Aung San Suu Kyi as soon as possible. Emphasizing that all the political prisoners should eventually be released, I also urged the Government to implement a massive release of the remaining prisoners, which in my view would send a powerful message of its commitment to the national reconciliation process. I called on the Government to support the United Nations efforts for expanded assistance to address HIV/AIDS and other humanitarian issues facing Myanmar and, to that end, to fully cooperate with

the United Nations country team's programmes. Foreign Minister Win Aung assured me that his Government was committed to working to realize the people's aspiration to achieve a multiparty democratic system, but at the same time stressed the need to build a strong nation that could withstand any challenges to its territorial integrity.

III. Observations

17. **The national reconciliation process in Myanmar has reached a pivotal stage. Some significant developments have taken place over the past two years. However, it is five months since Daw Aung San Suu Kyi resumed her activities as the leader of a lawful political party, and, despite the indications given to my Special Envoy, substantive dialogue between the Government and Daw Aung San Suu Kyi has yet to commence. I am concerned that the positive momentum generated since this spring could dissipate unless some tangible progress is made in the near future. It is my strong belief that the objectives of preserving stability and pressing ahead with much-needed reforms are mutually compatible. While recognizing the Government's desire to build a strong nation that can withstand challenges to its territorial integrity, history has proved that a system of governance is more stable and sustainable when it is flexible enough to accommodate diverse opinions and allow peaceful change. This is all the more necessary in the current international and regional environments, where rapid economic progress is accompanied by the requisite social change.**

18. **I appeal once again to Senior General Than Shwe, other leaders of the Government and Daw Aung San Suu Kyi to set aside their differences, to unite for the larger cause of national reconciliation and to commence substantive dialogue as soon as possible. It is only through an all-inclusive dialogue that Myanmar will be able to ensure that national reconciliation is durable and the transition to democracy smooth. I also reiterate my call on the Government to find ways to release quickly all the remaining political detainees and to relax evenly the remaining restrictions on the activities of the legal political parties. The people of Myanmar also need to begin to benefit directly from the process of national reconciliation and democratization currently under way in the country. I therefore urge the Government to cooperate with NLD and other legal political parties, the United Nations and relevant non-governmental organizations to ensure the effective and transparent distribution of humanitarian assistance. In addition, I encourage the Government to accept invitations from the international financial institutions to commence discussions on how to make certain necessary adjustments to the Myanmar economy.**

19. **I am very grateful for the support that interested Member States, both inside and outside the region, have provided me and my Special Envoy to facilitate the national reconciliation in Myanmar. Myanmar is not alone in its endeavour to achieve national reconciliation and democratization; the international community is genuine in its commitment to assist in the transition process. A stable, prosperous and democratic Myanmar is, after all, not only the aspiration of its own people but that of the international community as well. Myanmar should not hesitate to take advantage of the good will, advice and assistance offered by the United Nations and the international community. At the same time, I remind the Government of Myanmar that the longer it delays**

in realizing its commitment to enter a substantive dialogue with Daw Aung San Suu Kyi, the harder it will become for the international community to provide a framework within which the process of national reconciliation can move naturally towards its logical conclusion. In this context, I call on the international community to continue to respond appropriately and proportionately to developments in the national reconciliation process. On my part, I stand ready to continue to do my utmost in facilitating the process of national reconciliation in Myanmar, with the assistance of all interested Member States.